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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,984	12/28/2000	Dieter Wenninger	BEIERSDORF 687-WCG	9463

7590 02/13/2003  
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New York, NY 10017

EXAMINER

ZIRKER, DANIEL R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/13/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-12

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 11/26/02 and 1/23/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-13 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-13 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 5, 7, 9, 10, 12 and 13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, despite the earlier claim amendments, several problems still remain in the claims. In claim 5 the phrase "is applied" and in claims 7, 9, 12 and 13 the phrase "said application rate" ~~is~~ *are* vague, indefinite and confusing since the application rate in an article claim is given in either grams per meter squared or, for claims 12 and 13 just in grams, which is clearly improper. In claim 10, line 3 the phrase "by virtue of the fact" is clearly informal, and in line 5 the phrase "in the thickness direction" is vague and indefinite.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

4. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by applicants' admissions in the specification set

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forth at page 3, lines 10-17. The relied upon admission clearly implicitly recites the presence of an outer adhesive layer in lines 16-17 and the remainder of the admission appears to clearly read on the claimed invention.

6. Claims 1-9 and 11-13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over applicants' admissions in the specification at page 3, lines 10-17 and page 6 lines 9-12, taken either individually, or <sup>alternatively</sup> for claim 3 in view of French -316. Alternatively for claim 1 the admission on page 3 is again relied upon substantially as set forth above, but only as an obviousness rejection and the admission on page 6 discloses that such adhesives as S-I-S adhesives are well known in the art. With respect to the remainder of the dependent claims, parameters such as thicknesses, the presence of a primer layer, and the amount of the release or adhesive coating are all well known to one of ordinary skill in the art, as is the presence of corona discharge techniques. As for French -316, the reference is again relied upon as in Paragraph No. 4 of Paper No. 9 as disclosing the presence of notches in a tape structure.

7. Claims 1, 2 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by Crass et al. The reference is now relied upon as disclosing (note particularly column 1 line 56 - column 2 line 49, claims 1 and 7) ~~as disclosing~~ a co-extruded, biaxially oriented multilayer polypropylene film coated on one outer

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surface with an adhesive composition. The layers can be made of polypropylene homopolymers or copolymers (column 1 lines 60-63) and the total thickness of the film is about 15 to 50 microns (column 2 lines 33-35). Upon reconsideration, the reference clearly teaches (note column 2 lines 20-32) the presence of an anti-adhesive substance in one of the polypropylene layers which would inherently create the structural limitation as claimed by applicants, i.e. "wherein the cleavage strength of the composite backing is less than the bond strength of the adhesive".

8. Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Crass et al. taken in view of French -316. The primary reference is again relied upon as set forth above, and the French reference is again relied upon as disclosing the Figure) the presence of elements such as notches as being well known in the adhesive tape art.

9. Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Freedman, taken either individually, or in view of applicants' admissions in the specification as set forth above. The reference clearly discloses (note particularly column 1 lines 5-9, column 2 line 37 - column 3 line 48, column 3 line 65 - column 4 line 6) a closely related multilayer tamper evident label in which the backing layers adhere to each other until they cleanly and readily separate under a suitable force. Applicants argue that (Response, page 5 bottom paragraph - page 6) that

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Freedman is directed to adhesive tapes, not labels, but the Examiner respectfully submits that the label art and adhesive tape art are clearly analogous arts that teach a closely related structure and very often face the same general type of problems. That is, the Examiner believes both that the reference is within the field of the inventor's endeavor, and also it is believed that the field of the reference is reasonably pertinent to the particular problem with which the inventor was involved. See In re Wood 202 USPQ 171. As such, the Examiner believes that it would be well within the skill of the art to modify Freedman so as to form an adhesive tape as set forth in applicants' claim 1 and utilize it in methods for detecting unauthorized broaching of a package which utilizing tapes which delaminate, both from what has been said above and, alternatively, that applicants have also admitted that their adhesive tape structure in claim 1 is essentially known.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be

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reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

February 11, 2003

**DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300**

1700

*Daniel Zinker*